

RECEIPT # 55912
AMOUNT \$ 150.00
SUMMONS ISSUED _____
LOCAL RULE 4.1 _____
WAIVER FORM _____
MCF ISSUED _____
BY DPTY. CLK. _____
DATE 5/14/04 KURZWEIL EDUCATIONAL SYSTEMS, INC.

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

FILED
CLERK'S OFFICE
2004 MAY 14 AM 11:46
U.S. DISTRICT COURT
DISTRICT OF MASS

Plaintiff,

v.

Civil Action No.:

FREEDOM SCIENTIFIC INC.,

Defendant.

04 - 10965 JLT

MAGISTRATE JUDGE Bowler

COMPLAINT AND DEMAND FOR JURY TRIAL

For its Complaint, the plaintiff, Kurzweil Educational Systems, Inc. ("Kurzweil"), alleges as follows:

The Parties

1. The plaintiff, Kurzweil, is a corporation organized and existing under the laws of Delaware and having its principal place of business at 14 Crosby Drive, Bedford, Massachusetts, within this judicial District.
2. The defendant, Freedom Scientific Inc. ("Freedom Scientific"), is, upon information and belief, a corporation organized under the laws of the State of Florida, with its principal place of business at 11800 31st Ct., Saint Petersburg, Florida.

Jurisdiction and Venue

3. This is an action for patent infringement, arising under the patent laws of the United States, Title 35 of the United States Code.

4. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

5. Venue is proper in this Court under 28 U.S.C. §§ 1391 and 1400(b).

Count I

6. Kurzweil is the owner of United States Patent No. 5,875,428, entitled READING SYSTEM DISPLAYING SCANNED IMAGES WITH DUAL HIGHLIGHTS (“the ‘428 patent”). The ‘428 patent is valid and subsisting and in full force and effect.

7. Upon information and belief, Freedom Scientific has infringed the ‘428 patent by making, using, offering to sell, and/or selling the patented invention in the United States. Upon information and belief, Freedom Scientific has also infringed the ‘428 patent contributorily and by inducing others to infringe. The infringing products include Freedom Scientific’s WYNN software. The infringement will continue unless enjoined by the Court.

8. Upon information and belief, Freedom Scientific’s infringement of the ‘428 patent has been and continues to be willful.

9. Kurzweil has been damaged by Freedom Scientific’s infringement of the ‘428 patent.

Count II

10. Kurzweil is the owner of United States Patent No. 6,052,663, entitled READING SYSTEM WHICH READS ALOUD FROM AN IMAGE REPRESENTATION OF A DOCUMENT (“the ‘663 patent”). The ‘663 patent is valid and subsisting and in full force and effect.

11. Upon information and belief, Freedom Scientific has infringed the '663 patent by making, using, offering to sell, and/or selling the patented invention in the United States. Upon information and belief, Freedom Scientific has also infringed the '663 patent contributorily and by inducing others to infringe. The infringing products include Freedom Scientific's WYNN and TestTalker software. The infringement will continue unless enjoined by the Court.

12. Upon information and belief, Freedom Scientific's infringement of the '663 patent has been and continues to be willful.

13. Kuzweil has been damaged by Freedom Scientific's infringement of the '663 patent.

WHEREFORE, Kurzweil prays that this Court:

- A. Enter judgment that Freedom Scientific has infringed the '428 and '663 patents;
- B. Enter an order preliminarily and permanently enjoining Freedom Scientific, its agents and employees, and any others acting in concert with it, from infringing the '428 and '663 patents;
- C. Award Kurzweil its damages resulting from Freedom Scientific's patent infringement pursuant to 35 U.S.C. § 284;
- D. Find that Freedom Scientific's infringement has been willful and increase the damages awarded to Kurzweil three times the amount assessed, pursuant to 35 U.S.C. § 284;
- E. Find this to be an exceptional case and award Kurzweil its attorney's fees, pursuant to 35 U.S.C. § 285;
- F. Award Kurzweil its prejudgment and post judgment interest on its damages;
- G. Award Kurzweil its costs; and
- H. Award Kurzweil such other and further relief as it deems just and appropriate.

Plaintiff demands a trial by jury.

By its attorneys

Dated: May 12, 2004



Lawrence K. Kolodney (BBO #556,851)
Kevin M. Littman (BBO #643,285)
FISH & RICHARDSON, P.C.
225 Franklin Street
Boston, MA 02110-2804
Telephone: (617) 542-5070
Facsimile: (617) 542-8906

Attorneys for Plaintiff
KURZWEIL EDUCATIONAL SYSTEMS,
INC.

04-10965 JLT

AO 120 (Rev. 2/99)

TO: Commissioner of Patents and Trademarks Washington, DC 20231	REPORT ON THE FILING OR DETERMINATION OF AN ACTION REGARDING A PATENT OR TRADEMARK
---	--

In Compliance with 35 § 290 and/or 15 U.S.C. § 1116 you are hereby advised that a court action has been
 filed in the U.S. District Court District of Massachusetts on the following ☒ Patents or ☐ Trademarks:

DOCKET NO.	DATE FILED	U.S. DISTRICT COURT Massachusetts
PLAINTIFF Kurzweil Educational Systems, Inc.		DEFENDANT Freedom Scientific Inc.
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK
1 5,875,428	2/23/99	Kurzweil Educational Systems, Inc.
2 6,052,663	4/18/00	Kurzweil Educational Systems, Inc.
3		
4		
5		

In the above—entitled case, the following patent(s) have been included:

DATE INCLUDED	INCLUDED BY	
	<input type="checkbox"/> Amendment <input type="checkbox"/> Answer <input type="checkbox"/> Cross Bill <input type="checkbox"/> Other Pleading	
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK
1		
2		
3		
4		
5		

In the above—entitled case, the following decision has been rendered or judgement issued:

DECISION/JUDGEMENT		
CLERK	(BY) DEPUTY CLERK	DATE

Copy 1—Upon initiation of action, mail this copy to Commissioner Copy 3—Upon termination of action, mail this copy to Commissioner
 Copy 2—Upon filing document adding patent(s), mail this copy to Commissioner Copy 4—Case file copy

CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

Kurzweil Educational Systems, Inc.

(b) County of Residence of First Listed Plaintiff Middlesex County, MA
(EXCEPT IN U.S. PLAINTIFF CASES)

DEFENDANTS

Freedom Scientific Inc.

County of Residence of First Listed Defendant Florida
2004 MAY 14 (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED

(c) Attorneys (Firm Name, Address, and Telephone Number)

Lawrence K. Kolodney
Kevin M. Littman
Fish & Richardson P.C. (Boston)
225 Franklin Street
Boston, MA 02110-2804
(617) 542-5070

Attorneys (If Known)

04-10965 JLT

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1. U.S. Government Plaintiff
- ☐ 2. U.S. Government Defendant
- ☒ 3. Federal Question (U.S. Government Not a Party)
- ☐ 4. Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS		FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - - Med. Malpractice <input type="checkbox"/> 365 Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth In Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input checked="" type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/ Commodities/ Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/ Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 Habeas Corpus: General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7609	

V. ORIGIN

(PLACE "X" IN ONE BOX ONLY)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from another district (specify)
- ☐ 6 Multidistrict Litigation
- ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

(Cite the U.S. Civil Statute under which you are filing and write brief statement of cause. Do not cite jurisdictional statutes unless diversity.)

Title 35 U.S.C. Infringement of United States Patent

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

Demand: \$ Accounting, costs

CHECK YES only if demanded in Complaint

JURY DEMAND

☒ Yes☐ No

VIII. RELATED CASE(S) IF ANY

(See Instructions)

JUDGE s

DOCKET NUMBER

DATE

5/12/04

SIGNATURE OF ATTORNEY OF RECORD

TYPE NAME OF ATTORNEY
Lawrence K. Kolodney

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS1. Title of case (name of first party on each side only) Kurzweil Educational Systems, Inc. v. Freedom Scientific Inc.

2. Category in which the case belongs based upon the numbered nature of suit code listed on the civil cover sheet. (See local rule 40.1(a)(1)).

- ☐ I. 160, 410, 470, R.23, REGARDLESS OF NATURE OF SUIT.
- ☒ II. 195, 368, 400, 440, 441-444, 540, 550, 555, 625, 710, 720, 730, 740, 790, 791, 820*, 830*, 840*, 850, 890, 892-894, 895, 950. *Also complete AO 120 or AO 121 for patent, trademark or copyright cases
- ☐ III. 110, 120, 130, 140, 151, 190, 210, 230, 240, 245, 290, 310, 315, 320, 330, 340, 345, 350, 355, 360, 362, 365, 370, 371, 380, 385, 450, 891.
- ☐ IV. 220, 422, 423, 430, 460, 510, 530, 610, 620, 630, 640, 650, 660, 690, 810, 861-865, 870, 871, 875, 900.
- ☐ V. 150, 152, 153.

3. Title and number, if any, of related cases. (See local rule 40.1(g)). If more than one prior related case has been filed in this district please indicate the title and number of the first filed case in this court.

None

4. Has a prior action between the same parties and based on the same claim ever been filed in this court?

YES ☐ NO ☒

5. Does the complaint in this case question the constitutionality of an act of congress affecting the public interest? (See 28 USC §2403)

YES ☐ NO ☒

If so, is the U.S.A. or an officer, agent or employee of the U.S. a party?

YES ☐ NO ☐

6. Is this case required to be heard and determined by a district court of three judges pursuant to title 28 USC §2284?

YES ☐ NO ☒7. Do all of the parties in this action, excluding governmental agencies of the united states and the Commonwealth of Massachusetts ("governmental agencies"), residing in Massachusetts reside in the same division? - (See Local Rule 40.1(d)).YES ☐ NO ☒A. If yes, in which division do all of the non-governmental parties reside?Eastern Division ☐ Central Division ☐ Western Division ☐

B. If no, in which division do the majority of the plaintiffs or the only parties, excluding governmental agencies, residing in Massachusetts reside?

Eastern Division ☒ Central Division ☐ Western Division ☐

8. If filing a Notice of Removal - are there any motions pending in the state court requiring the attention of this Court? (If yes, submit a separate sheet identifying the motions)

YES ☐ NO ☐

(PLEASE TYPE OR PRINT)

ATTORNEY'S NAME Lawrence K. KolodneyADDRESS Fish & Richardson P.C., 225 Franklin Street, Boston, MA 02110TELEPHONE NO. (617) 542-5070